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October 7, 2002

Sent via e-mail, hand-delivery, and/or U.S. Mail

Mary L. Cottrell, Secretary
Massachusetts Department of Telecommunications and Energy
One South Station, 2nd Floor
Boston, MA 02110

Re: Verizon's Alternative Regulation Plan, D.T.E. 01-31 (Phase II)

Dear Ms. Cottrell:

Enclosed for filing please find the Attorney General's Response to the Department's First Set of Information Requests to the Attorney General, DTE-AG 1-1 and 1-2, and a Certificate of Service.

Sincerely,

Karlen J. Reed
Assistant Attorney General
Utilities Division
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KJR/kr

Enc.

cc: D.T.E. 01-31 (Phase II) Service List (w/enc.)

**THE COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY**

D.T.E. 01-31 (Phase II)

Respondent: David Gabel

Request: Massachusetts Department of Telecommunications and Energy, Set #1

Request Date: September 27, 2002

Response Date: October 7, 2002

DTE-AG 1-1: Please refer to the September 4, 2002 Testimony of David Gabel, p.5, line 34. Given the growing competitive environment, please explain why the Department should maintain quality of service standards for Verizon MA.

Response: The Department should, at a minimum, maintain the existing service quality standards and reporting system that currently exist pursuant to the Department's order in *NYNEX*, DPU 94-50 for both residential and business retail services because the vast majority of Massachusetts phone customers depend on Verizon to set the service quality level, either directly as a Verizon retail end-user customer or indirectly through the use by competitive local exchange carriers ("CLECs") of unbundled network elements ("UNE-P") or resale.

A recent study by the Federal Communications Commission ("FCC") shows that less than seven percent of the total (business and residential) switched access lines in Massachusetts are served over CLEC-owned facilities. See, "Local Telephone Competition: Status as of December 31, 2001," Tables 6 and 8, Industry Analysis and Technology Division Wireline Competition Bureau, FCC, July 2002 [317,471 CLEC-owned MA facilities (Table 8) / 4,600,678 total end-user switched access lines = 6.9%]. A copy of this report is attached to this response as "Attachment A" and is located at http://www.fcc.gov/Bureaus/Common_Carrier/Reports/FCC-State_Link/IAD/lcom0702.pdf. UNE-P and resale data provided by Verizon for this same time period in its response to DTE-VZ RR 2 and 2A in Phase I of this docket support this statistic.

Customers served by CLECs over UNE loops or via resold retail services will receive only the same level of service as Verizon's own retail

customers. The Department's Performance Assurance Plan, created in DTE 99-271, is designed to provide CLECs with the same quality of service that is provided to Verizon's own retail customers, not superior service. Therefore, at least 93% of all end users depend on Verizon to set the service quality level.

Competition has taken place in telecommunications markets for a few different reasons. Entrants have repeatedly entered the market offering customers service that is superior to what was being offered by the incumbent. Entrants have not entered the market offering to provide worse service.

For example, competitive access providers, such as Teleport, entered the data market promising to provide better data services.¹ The independent telephone companies that competed with the Bell System at the start of the Twentieth Century obtained customers in large part because the quality of voice service on their network was superior to what was offered by the incumbent.² Consequently, that portion of a competitive market that does not rely on the incumbent to provide service should lead to an increase, not a decrease in the quality of service.

From this observation it follows that the existing quality of service standards, created under DPU 94-50, are a non-binding constraint in a competitive market. Verizon does not have an incentive to lower its quality of service in any market where it faces competition. It is only profitable for Verizon to lower its quality of service where competitors are not offering service over an alternative platform. Therefore, in light of the limited use of alternative (CLEC) facilities, and in order to provide a competitive quality of service to subscribers, it is necessary to, at a minimum, to maintain the existing service quality standards set in DPU 94-50.

In addition, the service quality standards established in the Performance

¹For example, Teleport saw an investment opportunity when it became apparent to the business community that the incumbent local exchange carriers did not provide sufficient route diversity and redundant electronics. See, TCG Annual Report: 1994, at 4-5.

²For example, the President of AT&T, Frederick Fish, wrote in 1903 that his Company "must give good service and must do everything that is necessary to have good service. Most of our opposition troubles are due, not so much to rates as to two other things, namely, bad service and not covering the field." Quoted in David Gabel, "Competition in a Network Industry: The Telephone Industry, 1894-1910," *Journal of Economic History*, vol. 54, September 1994, pp. 543-572. AT&T's competitors in 1903, unlike Verizon's rivals today, relied exclusively on their own facility based network.

Assurance Plan include penalties that are paid to wholesale competitors, not end-user customers, for Verizon's substandard service. The service quality plan proposed by Verizon in the alternative to no service quality plan includes a penalty provision that would pay end-user customers directly if Verizon falls below the Department's standards. Without service quality penalties for retail users, there would be little incentive for Verizon to meet those standards. Therefore, the Department should maintain the existing service quality standards and impose penalties which would be paid to end user customers.

DTE-AG 1-2: Given the Department's conclusion in the Phase I Order that Verizon MA's business services are sufficiently competitive, please explain the need to adopt a regulatory plan that continues to impose a Service Quality Plan that measures the level of service provided by Verizon MA to its business customers.

Response: Please see the Attorney General's response to DTE-AG 1-1.

**THE COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY**

Investigation by the Department of Telecommunications and Energy on)	
its own Motion into the Appropriate Regulatory Plan to succeed Price Cap)	
Regulation for Verizon New England, Inc. d/b/a Verizon Massachusetts')	D.T.E. 01-31
intrastate retail telecommunications services in the Commonwealth)	Phase II
of Massachusetts)	
)	

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding by either hand delivery, mail, and/or e-mail.

Dated at Boston this 7th day of October, 2002.

Karlen J. Reed
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ATTACHMENT A

DTE-AG 1-1, DTE 01-31 (PHASE II)

“Local Telephone Competition: Status as of December 31, 2001,”
Federal Communications Commission, Wireline Competition Bureau,
Industry Analysis and Technology Division, July 2002